

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 33

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PEACE OFFICERS; AMENDING SECTION 19-510, IDAHO CODE, TO REVISE THE ENUMERATION OF THE TERM "PEACE OFFICER"; AMENDING CHAPTER 5, TITLE 19, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 19-510B, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT OF STATE LAW BY LAW ENFORCEMENT OFFICERS OF FEDERALLY RECOGNIZED INDIAN TRIBES WITHIN THE STATE AND THE REQUIREMENTS THEREFOR; AND AMENDING SECTION 19-5101, IDAHO CODE, TO REVISE A DEFINITION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 19-510, Idaho Code, be, and the same is hereby amended to read as follows:

19-510. PEACE OFFICERS ENUMERATED. A peace officer is:
(1) A member of the Idaho state police;
(2) A sheriff of a county, or;
(3) A constable, marshal, or policeman of a city or town; or
(4) Any other officer duly authorized to enforce municipal, county or state laws.

SECTION 2. That Chapter 5, Title 19, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 19-510B, Idaho Code, and to read as follows:

19-510B. ENFORCEMENT OF STATE LAW BY LAW ENFORCEMENT OFFICERS OF FEDERALLY RECOGNIZED INDIAN TRIBES WITHIN THE STATE — REQUIREMENTS. (1) An employee of a police or law enforcement agency of a federally recognized Indian tribe within the state of Idaho, while engaged in the conduct of his or her employment as a law enforcement officer, is authorized to enforce state laws anywhere within the exterior limits of the reservation of the tribe employing such officer, subject to the limitations provided in this section, provided that the officer:

(a) Is appointed by the governing body of a federally recognized Indian tribe in Idaho;

(b) Is the holder of a certificate from the Idaho peace officers standards and training council certifying that the tribal law enforcement officer has satisfactorily completed the basic training established by the Idaho peace officer standards and training council required for peace officers to be eligible for permanent employment by a police or law enforcement agency administered by the state of Idaho or political subdivisions thereof; and

(c) Such officer has not been decertified by the Idaho peace officer standards and training council pursuant to section 19-5109(3), Idaho Code.

1 (2) The authority of a law enforcement officer, appointed pursuant
2 to this section, to enforce state law shall be applicable thirty (30) days
3 following mailing of a written notice by the appointing Indian tribe to
4 the sheriff of each county, either wholly or partially within the exterior
5 boundaries of the reservation, which notice shall include:

6 (a) The identity of each tribal law enforcement officer appointed pur-
7 suant to subsection (1) of this section; and

8 (b) A copy of such tribal law enforcement officer's certificate from
9 the Idaho peace officers standards and training council certifying that
10 the tribal law enforcement officer has satisfactorily completed the
11 basic training established by the Idaho peace officer standards and
12 training council, as set forth in subsection (1) (b) of this section.

13 (3) A law enforcement officer, who is qualified and appointed pursuant
14 to subsection (1) of this section, shall be authorized to enforce state law
15 only during such time as the appointing Indian tribe maintains in force a
16 policy or contract of insurance, which policy or contract shall provide that
17 the insurance carrier pay on behalf of the appointing Indian tribe or its
18 peace officers, acting pursuant to authority granted to such tribe or its
19 law enforcement officers pursuant to this section, to a limit of not less
20 than two million dollars (\$2,000,000) for bodily or personal injury, death
21 or property damage or loss as the result of any one (1) occurrence or acci-
22 dent, regardless of the number of persons injured or the number of claimants.
23 Such policy or contract shall also:

24 (a) Include an endorsement providing that the insurer may not invoke
25 tribal sovereign immunity up to the limits of the policy or contract of
26 insurance set forth herein; and

27 (b) Provide that the insurance carrier shall not cancel, terminate or
28 amend the insurance coverage in such manner that the insurance cover-
29 age no longer complies with the requirements of this section, until at
30 least ten (10) days after a notice of cancellation, termination or cov-
31 erage amendment shall be filed with office of the attorney general of
32 the state of Idaho.

33 (4) Law enforcement officers appointed by a federally recognized In-
34 dian tribe within the state of Idaho pursuant to this section may exercise
35 powers of peace officers pursuant to, and in accordance with, the laws of
36 the state of Idaho only within the exterior limits of the reservation of the
37 tribe employing such law enforcement officer, subject to the following:

38 (a) When issuing a citation or summons alleging a violation of state
39 law, such officer shall cite the person to appear before an Idaho state
40 magistrate, as defined by and having jurisdiction over the matter pur-
41 suant to Idaho state law.

42 (b) When making an arrest pursuant to a warrant, the officer must cause
43 the defendant to be taken before the state magistrate who issued the
44 warrant or, in the case of the issuing magistrate's absence or inability
45 to act, before the nearest or most accessible state magistrate in the
46 same county.

47 (c) When making an arrest without a warrant, the person arrested must
48 be taken before the nearest or most accessible state magistrate in the
49 county in which the arrest is made.

(d) Such officer shall comply with all duties imposed on peace officers by the laws of the state of Idaho relating to arrest and custody, and the entitlement to judicial proceedings, by or on behalf of the person arrested, in a state court of competent jurisdiction.

(e) Such officer shall cooperate with the investigative and judicial requirements related to prosecution of the arrested person as may be reasonably required by the respective county sheriff and/or prosecuting attorney.

(5) Each Indian tribe appointing an officer pursuant to subsection (1) of this section shall be liable for any and all acts of such officer while engaged in the conduct of his or her employment.

(6) Neither the state of Idaho nor any county or city thereof shall be liable for any acts or failure to act by an officer appointed pursuant to this section.

(7) Appointment of an officer pursuant to this section shall constitute a waiver of the appointing tribe's tribal sovereign immunity from suit to the extent necessary to permit recovery under the policy or contract of insurance, but not to exceed the policy limits, as provided in subsection (3) of this section. If a claim is brought against an Indian tribe, tribal law enforcement agency or peace officer for acts committed by such tribe, agency or officer while acting pursuant to this section, such claim shall be subject to disposition as if the tribe is a governmental entity, as defined by the Idaho tort claims act, section 6-902(3), Idaho Code; provided that the Idaho tort claims act shall not be deemed to waive the requirement that the tribe provide insurance, or any portion thereof, as required pursuant to this section.

(8) Nothing in this section shall be construed to prohibit any agreement between a state, county or city law enforcement agency and any federally recognized Indian tribe within the state of Idaho.

(9) Nothing contained in this section shall be construed or deemed to limit, impair or otherwise affect the existing authority of state, county or city law enforcement officers to enforce state law within the exterior boundaries of an Indian reservation.

SECTION 3. That Section 19-5101, Idaho Code, be, and the same is hereby amended to read as follows:

19-5101. DEFINITIONS. As used in this act:

(a) "Council" means the Idaho peace officer standards and training council.

(b) "County detention officer" means an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates.

(c) "Law enforcement" means any and all activities pertaining to crime prevention or reduction and law enforcement, including police, courts, prosecution, corrections, probation, rehabilitation, and juvenile delinquency.

(d) "Peace officer" means any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or high-

1 way laws of this state or any political subdivision. "Peace officer" also
2 means an employee of a police or law enforcement agency ~~of~~ administered by a
3 federally recognized Indian tribe within the state of Idaho who has received
4 a certificate of having satisfactorily completed the minimum requirements
5 of basic training established by the peace officer standards and training
6 academy and has been deputized by a sheriff of a county or a chief of council
7 required for peace officers to be eligible for permanent employment by a po-
8 lice of a city of or law enforcement agency administered by the state of Idaho
9 or a political subdivision thereof.

10 (e) "Political subdivision" means any city or county.